

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

VISIBLE SYSTEMS CORPORATION,

Plaintiff

v.

UNISYS CORPORATION,

Defendant

Civil Action No. 04-CV-11610-RGS

PLAINTIFF'S COMMENTS ON TIME LIMIT ORDER

Plaintiff Visible Systems Corporation ("Visible"), in response to the Court's Time Limit Order of May 9, 2007, respectfully requests 15 hours for the presentation of Visible's case in chief and additional time for the cross-examination of defendant's witnesses, amounting to one-third of the amount of time allowed to defendant for the presentation of its case. The requested time is necessary for Visible to present all elements of its case via the following witnesses:

1. George Cagliuso, founder and Chief Executive Officer of Visible - 30 minutes

Mr. Cagliuso will present an overview of the history of the company, and the registration and use of its marks (Mr. Cagliuso suffered a stroke in June 2006, but has recovered sufficiently that he is available to testify to an abbreviated extent; his deposition has been scheduled by consent of counsel for June 12 and 14, 2007).

2. Michael Cesino, President of Visible - 3 hours

Mr. Cesino will present the detailed history of Visible's use and advertising of its marks, recognition Visible has received in connection with its use of its marks, and Visible's customers and channels of trade.

3. Yvonne Fang, bookkeeper for Visible – 20 minutes

Ms. Fang will testify about financial records that Visible will offer into evidence.

4. John Nash, Vice President of Visible - 3 hours

Mr. Nash will present the history of Visible's sales to publishers and universities. He will also present the ways in which he has observed defendant Unisys Corporation using marks similar to Visible's marks. The number of these marks and instances will require some time, in order to show Unisys' use of names including the following: 3D Visible Enterprise, 3D Visible, Visible Enterprise, Visible, Visible Advantage, Visible Impact, Visible Metrics, Visible Results.

5. Stewart Nash, Vice President of Visible - 90 minutes

Mr. Nash will testify about Visible's recent services engagements and product sales, in connection with its marks, as well as the impact on Visible's sales and reputation as a result of defendant Unisys Corporation's use of marks that include the word "Visible."

6. Alan Perkins, former Vice President of Visible - 1 hour

Mr. Perkins will testify about the building of the reputation of Visible's marks in connection with services and products during the time period 1997 to 2001.

7. Linda Marquis, former marketing consultant for Visible - 20 minutes

Ms. Marquis will testify about marketing related to Visible's marks.

8. Fred Grossman, professor of computer science, Pace University- 30 minutes

Dr. Grossman will testify about the use and reputation of Visible in the university setting from his personal experience, and his personal experience of students taking Visible from their university training into the commercial world.

9. William Earl, Chief Architect for the Information Systems division of the Arizona Supreme Court, Administrative Office of the Court – 30 minutes, re consulting services performed by Visible.

10. Clive Finkelstein, Managing Director of Information Engineering Services Pty. Ltd. – 80 minutes, re the consulting methodology and modeling tools developed by him, the transaction by which

they took on the Visible name under the ownership of Visible Systems corporation, and relevant factual matters within his personal knowledge and experience.

11. David Wright, head of corporate identity for Unisys Corporation, and/or other Unisys corporate officer – 30 minutes, called as on cross concerning Wright’s decisions about which names containing the term “Visible” he directed could and could not be used by Unisys Corporation, and concerning corporate governance issues surrounding Unisys’ use of names it was directed not to use by Mr. Wright, as relates to the issue of intent.

12. Rainer Schoenrank, customer and user of Visible’s products since 1987 – 30 minutes – Mr. Schoenrank will testify about his experience with Visible’s products and its competitors, about Visible’s reputation and position in the field, and about the use of the word “Visible” in the field.

13. Malcolm Lane, chairman of the computer science dept., James Madison Univ. – 90 minutes
Dr. Lane will present his opinions as Visible's testifying expert.

14. Clement Cote, testifying expert for Visible – 30 minutes

Undersigned counsel believes that the total of the above-stated times, 15 hours, is the aggregate amount of time that Visible will need to present its case in chief, while acknowledging that the time for each individual witness may vary somewhat from the individual times stated, and that Visible reserves the right to add to or modify this list up to the time when its witness list for trial is submitted. Visible will need, additionally, time for cross-examination of defendant’s witnesses, amounting to one-third of the time allowed to defendant for the presentation of its case.

Certificate of Conference of Counsel

Counsel for plaintiff and defendant conferred about this motion on May 22, 2007, by telephone, and were not able to reach agreement.

Plaintiff,

VISIBLE SYSTEMS CORPORATION,

By its attorneys,

/s/ Stephen H. Galebach
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May 23, 2007

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

May 23, 2007

/s/ Stephen H. Galebach
Stephen H. Galebach